

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA :

v. :

DAVID VEGA MOLINA : **Cr. 99-295 (DRD)**

**MOTION FOR ORDER DIRECTING
US BUREAU OF PRISONS
TO FORWARD DEFENDANT'S LEGAL MATERIALS
AND PERSONAL BELONGINGS WITHOUT FURTHER DELAY**

TO THE COURT:

DEFENDANT, David Vega Molina, by his undersigned counsel, hereby moves the Court, pursuant to the Sixth Amendment of the Constitution of the United States, for the relief stated below, for the reasons and on the grounds explained as follows:

1. As the Court is aware, defendant was returned to this jurisdiction as a pretrial detainee to stand trial on this indictment following the reversal of his conviction and sentence.
2. At the time of the Court of Appeals' decision, he was serving life sentences at USP Coleman #1. All of his legal materials, including a complete set of trial transcripts, motions, legal research and other materials relevant to his case, as well as his personal belongings (shoes, clothing for recreation, etc.) were there with him.
3. He was transferred to MDC Guaynabo on September 1, 2005.
4. None of his legal materials or personal belongings were transferred with him.

5. He has attempted, for the last nine months, to secure his legal materials and personal belongings to no avail. He has made attempts through the relevant personnel at MDC Guaynabo who, in turn, have communicated to those at USP Coleman.

6. Counsel is informed that the personnel at USP Coleman maintain that they have no duty to send him the materials, as, according to their records, he has already been sentenced. According to the information received by counsel, USP Coleman maintain that nothing short of a court order will result in their sending the legal materials and personal belongings to defendant at MDC Guaynabo.

7. As a pretrial detainee, defendant has Sixth Amendment rights to prepare for trial and actively participate in the preparation of his defense. He also has an independent sixth Amendment right of access to the courts. See e.g., Wolff v. McDonnell, 418 U.S. 539 (1974)(pretrial detainees may not be punished; retain rights such as access to courts and counsel as well as others). These rights are violated by the arbitrary retention of his legal materials and personal belongings at USP Coleman.

8. The only relief defendant seeks is to obtain his legal materials and personal belongings, which are being unreasonably and arbitrarily withheld from him over nine months after his transfer and the change in his status.

9. It is respectfully requested that the United States be given no more than ten days to object, and that this Court resolve this issue on an expedited basis.

WHEREFORE, it is respectfully requested that the Court issue an Order (proposed Order attached) to the Warden, USP Coleman, to locate and produce the legal materials and any personal property retained at USP Coleman to defendant at MDC Guaynabo within the next fifteen day following receipt of the Order, or show cause why this cannot be done.

CERTIFICATION

I hereby certify that on this date, the foregoing was electronically filed with the Clerk of the Court via CM/ECF system, which will cause a copy to be electronically served upon all counsel of record.

Respectfully submitted:

April 21, 2006

s/ Linda A. Backiel
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ORDER

On the grounds and for the reasons stated in Defendant's Motion for Order directing US Bureau of Prisons to forward legal materials and personal belongings, in light of the Sixth Amendment rights of this pretrial detainee, this Court grants the same and hereby ORDERS:

The United States Bureau of Prisons, through the Warden of USP Coleman 1, at Coleman Florida, to PRODUCE TO MDC GUAYNABO, WITHIN THE NEXT FIFTEEN DAYS FOLLOWING RECEIPT OF THIS ORDER, all legal materials and personal belongings of David Vega Molina, Register No. 1435-069, or show cause why the same cannot be done within that time.

SAN JUAN, PUERTO RICO THIS ____ day of ____, 2006

DANIEL R. DOMINGUEZ
United States District Judge
District of Puerto Rico